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Filing date: **09/17/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91207848
Party	Plaintiff Rodeo Realty, Inc.
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Submission	Response to Board Order/Inquiry
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Rodeo Realty, Inc.,

Opposer,

v.

William Ambrose Kennedy,

Applicant.

Opposition No. 91207848

Serial No. 76710265

Mark: Rodeo Realty

**RESPONSE TO APPLICANT'S FILING DATED AUGUST 1, 2014;
DECLARATION IN SUPPORT**

Opposer Rodeo Realty, Inc. ("Opposer") hereby responds to the filing by Applicant William Ambrose Kennedy ("Applicant") dated August 1, 2014 in connection with Opposer's Motion to Compel Discovery as follows:

1. Opposer objects to Applicant's denials that he has failed to provide his Initial Disclosures and that he is playing "blind man's bluff." Those denials are not under oath and are therefore not evidence. Opposer requests that said denials be stricken from the record.
2. Opposer objects to the remainder of Applicant's filing, except the reference to the admission that Applicant's RODEO REALTY is the title to his television show of the same name, on the grounds that the remainder of the filing is irrelevant.
3. Notwithstanding the Board's Order of July 5, 2014 that he do so, Applicant has failed to provide full and formal Initial Disclosures. Opposer is therefore prejudiced in this proceeding because:
 - a. Opposer does not know who Applicant's witnesses are or will be; and

- b. Opposer does not know if there are additional documents that will be used in this proceeding in addition to the script and treatment documents of his RODEO REALTY television show that Applicant sent to Opposer's counsel.
4. Notwithstanding the Board's Order of July 5, 2014 that he do so, Applicant has not served a full set of formal responses to Opposer's formal, written Requests for Production of Documents. Opposer is therefore prejudiced because it does not know if documents exist, or do not exist, relating to Applicant's use, or intent-to-use his purported mark.
5. Likewise, Applicant has not complied with the Board's Order of July 5, 2014 that he serve verified Answers to Opposer's Interrogatories. Opposer is therefore prejudiced by not having evidence under oath about Applicant's mark and his intent to use, or use, of his purported mark.

As contemplated by the Board's Order of July 5, 2014, Opposer intends to file a Motion for Sanctions.

In the meantime, Applicant requests that the trial dates in the Board's Order of July 5, 2014 be reset to extend the dates in the dates set forth therein as follows:

Applicant's Expert Disclosures Due 9/2/2014

Applicant's Discovery Closes 10/2/2014

with the dates for Opposer's Expert Disclosures, Close of Discovery and the remaining dates all be extended by at least 60 days.

Respectfully submitted,

DATED: September 17, 2014

A handwritten signature in black ink, appearing to read "A. M. Kindred", is written over a horizontal line.

Alan M. Kindred, California bar member
Co-Counsel for Opposer
Rodeo Realty, Inc.

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DECLARATION OF ALAN M. KINDRED IN SUPPORT OF RESPONSE TO
APPLICANT'S FILING DATED AUGUST 1, 2014

I, Alan M. Kindred, declare as follows:

1. I am one of Opposer's attorneys in this proceeding having recently come into the case.
My colleague, Douglas H. Morseburg remains as one of Opposer's attorneys of record. If called upon to testify to the matters set forth in this Declaration, I could competently do so. The matters of fact set forth in this Declaration are based on my personal knowledge.
2. Upon coming into this case as one of Opposer's attorneys, I reviewed the files at our office. My review of those files revealed the following;
 - a. Applicant has never served full and formal Initial Disclosures,
 - b. Applicant has never served full responses to Opposer's Requests for Production of Documents, and
 - c. Applicant has never served a full, formal, verified set of Answers to Opposer's Interrogatories.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Pasadena, California this 17th day of September, 2014.



Alan M. Kindred

CERTIFICATE OF SERVICE

The undersigned certifies that on the 17th day of September, 2014, a true copy of the foregoing **RESPONSE TO APPLICANT'S FILING DATED AUGUST 1, 2014; DECLARATION IN SUPPORT** was served on the opposing party via email and via United States first class mail, postage prepaid, addressed as follows:

William Ambrose Kennedy
873 East Squantum Street
North Quincy, MA 02171

Email: billkenn@gmail.com



Alan M. Kindred